

How to Start a Business in Montgomery County

Decide what kind of business to open

- Seriously consider your skills and abilities

The most successful business owners start a business that they know. They obtain their best knowledge from working in the industry of their choosing. Example: the person who wants to start a restaurant should have worked in all areas of a restaurant and know how to manage a commercial kitchen. If you simply like to cook and have limited restaurant experience; re-consider your restaurant idea.

- Haven't decided what kind of business to start?

Visit the Rockville Regional Public Library to see Entrepreneur Magazine's "Start-Up Guides". This is a collection of "how to start" a variety of businesses. This resource will help you narrow your choices and lead you to further research. Click here for additional information on the Rockville Regional Public Library www.mont.lib.md.us

- Consider the impact on your lifestyle.

Retail businesses tend to operate evenings and weekends. Professional Service firms tend to operate during regular business hours.

Put together a Business Plan. Make sure your idea is well developed!

Click here for a Sample Business Plan. It includes an outline, an example and financial projections. (See example beginning on page 27)

- Do I have to complete a business plan?

Only a small number of successful business owners didn't complete a business plan. A well thought out business plan will force the owner to research, learn and articulate on paper all the major considerations for putting together a business. You will be better prepared and less likely to make costly errors. A business plan is required for all funding requests. Many landlords will ask to see your plan before you sign a lease also.

Choose a Legal Entity (Sole Proprietorship, Partnership, Corporations, Limited Liability Companies, etc)

When choosing a legal entity the two primary considerations are:

- **Liability:** The liability we're taking about is liability that arises from the business and is NOT covered by insurance, and the protection of your personal assets from business liability. The expert in liability is your business attorney.
- **Taxation:** How the company is taxed by the Internal Revenue Service. The expert in taxation is your business accountant.

Click [here](#) for chart of most common legal entities in the State of Maryland.

Legal Forms Of Business Organization

Consideration:	Sole Proprietorship	General Partnership	Registered Limited Liability Partnership
Structure	One individual directly owns the business.	Business assets are owned as tenants-in-partnership. Must have at least two owners, who are called partners. A partnership agreement may be oral or written. No maximum number of partners	Same as general partnership, however, the partnership must register with the state to be a Registered Limited Liability Partnership.
Liability	The proprietor is personally responsible for all business liabilities. Creditors may force a proprietor to use personal assets to pay business debt. <i>Note: whether the proprietor can obtain insurance to limit his/her liability may affect whether a proprietorship is the best form.</i>	General partners are each personally liable for all partnership liabilities. A general partner may be required to pay all of a liability but has a right to be reimbursed by the other general partners. Liability of general partners extends to their personal assets.	In Maryland, partners of Registered Limited Liability Partnerships are not liable for contract or tort debts of the RLLP, but remain liable for their own negligence and wrongful acts.
Income Taxes	The sole proprietor is taxed directly on business income at applicable individual rates. In addition, the proprietor must pay self-employment taxes. The income or loss is reported and taxes paid on the proprietor's individual tax return.	Partnership income is taxed to the partners at their respective individual tax rates, whether or not the partner actually receives the income. Losses of the partnership are reported on the partners' individual returns. A general partner's partnership income is subject to self-employment tax if	The RLLP entity is a partnership for federal and state income.

		generated from the conduct of a trade or business.	
Management	Sole proprietor has all decision-making authority.	All general partners have equal management rights, unless they agreed otherwise. No formal officers are required, and management responsibilities may be assigned by agreement.	Same as general partnership.
Uses	Any lawful business or professional practice.	Any lawful business or professional practice.	Any lawful business or professional practice.
Costs	Applicable license fees. Fictitious business name statements (if business conducted under name other than proprietor's). No annual maintenance costs.	Attorney's fees for drafting and negotiating partnership agreements. The more complex or highly negotiated the agreements, the higher the costs.	Filing fees required in order to register.
Advantages	Simplicity, low cost, no organizational complexity, lower tax rates, no double tax.	High degree of flexibility, profits and losses may be shared disproportionately, no double tax, no S-corporation type tax entanglements.	Same as general partnership but with the broadest available shield from liability.
Disadvantages	Unlimited personal liability.	Unlimited personal liability for general partners.	Most states do not recognize the same degree of protection from liability afforded to RLLP partners by Maryland law. No availability of tax-free fringe benefits as provided by C corporation.

Legal Forms Of Business Organization

Consideration:	Limited Partnership	Corporations	<u>Limited Liability Company</u>
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Structure	Must have at least one general partners and at least one limited partner. Formed by filing a certificate of limited partnership with the state.	A corporation is a separate legal entity created under applicable state laws. The corporation owns the business. The corporation, in turn, is owned by shareholders. Corporations may have one or more shareholders, with no maximum limitation, unless the corporation elects to be an S corporation. Shareholders may be individuals, partnerships, trust or other corporations, unless the corporation elects to be an S corporation. Shareholders may own common stock or may own preferred stock that carries preferred rights to dividends and liquidation proceeds, unless the corporation is an S corporation.	This is a legal entity, which is separate from its owners. The company owns the business. There must be a minimum of two owners. After Oct. 1, 1996, the reduction of the number of members to one will not affect the LLC's status. No limit on the number or type of owners, who are called members. A limited liability corporation is formed by filing a document with the state of organization.
Liability	General partner liable for debts. After Jan. 1, 1997, general partners may limit liability by registering as "LLLP". Limited partner's liability is limited to amount of capital contribution unless he helps control the venture.	The corporation is a legal entity, which is separate from its shareholders. Creditors may look to the assets of the corporation for payment but, generally, may not look to shareholders' personal assets. The corporation provides a shield against personal liability. However, professionals and other agents remain liable for their own negligence.	The company is like the corporation in that members generally are not liable for the debts of the business. However, professionals and other agents remain liable for their own negligence.
Income Taxes	Will be treated as a partnership for federal and state purposes if properly structured.	A corporation may elect to be a C or and S corporation for federal income tax purposes. The C corporation is a tax-paying entity. C corporations pay tax on their profits, and the shareholders pay tax on the remainder when it is distributed as a dividend. Losses are not passed through to stockholders. C corporations may provide certain tax-free fringe benefits to employee-stockholders. The S corporation, generally, is a pass-through entity. Stockholders report the corporation's profits or losses on their individual returns.	The limited liability company, if properly structured, may qualify to be treated exactly like a partnership for income tax purposes. Thus, the company will be a 'pass-through' entity, and there will be no double tax.
Management	General partner manages the business. Limited partners are passive.	Shareholders elect a board of directors, which is responsible for major policy decisions. The board of directors elects officers who manage day-to-day operations. Three officer positions are required: president, secretary and treasurer.	The company may be managed directly by the members, much the same way that a general partnership is managed; or, in the alternative, the members may designate managers.
Uses	Same as gen'l partnership, except cannot act as an insurer.	Any lawful business or professional practice.	Any lawful business or professional practice, except acting as an insurer.
Costs	Filing fees to file certificate.	Legal fees for preparing documents such as articles of incorporation, by-laws, and	Legal fees for preparing articles of organization and

		corporate minutes. Filing fees to incorporate.	operating agreement. Filing fees to organize.
Advantages	Flexibility, with some degree of protection from liability.	Limits shareholder liability. Stockholders have option of choosing 'pass-through' of non-pass-through tax status for the entity.	Same as general partnership but with broad shield of owners from liability.
Disadvantages	Does not provide the fullest shield from liability. May be complex to structure.	Double tax is often a problem if the corporation is a C corporation. S corporations often present numerous structural and operational problems. Undesired tax consequences often result in the case of sales of stock of closely held corporations.	No availability of tax-free fringe benefits provided by C corporations. Properly structuring the company can be difficult. Not all states recognize the company.

Choose a Name for Your Business

- The name of your business must be unique in the State of Maryland.

Once registered with the State your name is protected in the State of Maryland.

- Legal Name vs. Trade Name - Know the difference!

The legal name of your business is an absolute requirement. All businesses have a legal name.

The trade name of your business is completely optional. It can be considered a "nick name" for the business, often for marketing purposes.

Examples:

Legal Entity	Legal Name	Trade Name (Optional) - d/b/a or t/a**
Sole Proprietorship	John A. Doe	none
Sole Proprietorship	John A. Doe	Doe's Consulting Services
Corporation	Doe, Inc.	none
Corporation	Doe, Inc.	JAD's Consulting Services
Corporation	JAD's Consulting Services	JAD's Consulting Services w/no trade name
Ltd. Liability Company	Doe, LLC	none
Ltd. Liability Company	Doe, LLC	Doe's Consulting Services
Ltd. Liability Company	Doe's Consulting Services, LLC	Doe's Consulting Services, LLC w/no trade name

** d/b/a = doing business as

** t/a = trading as

The legal name of your business is required to reflect the type of business entity. Examples: The legal name of a corporation needs to have the words or letters after the name to indicate it's a corporation, examples: Incorporated, Corporation, Inc., Corp etc.

The Legal name of a Limited Liability Company needs to have "Limited Liability Company or LLC" included in the legal name

Sole Proprietors need no special language in the business name and should not portray themselves as a Partnership, Corporation or Limited Liability Company.

Q-Tips:

- Be careful not to confuse the tradename of a business with a trademark. Click here for information on trademarks <http://www.uspto.gov/>
- Consider a business name that reflects what product or service the company is selling.
- Before using your personal name or any variation of it for the business name, consider your personal security
- Best way to name a business - Gather a group of people and have a dictionary and thesaurus on hand. Start Brainstorming!
- Check the availability of your chosen name on the State Department of Assessment and Taxation website, Also check similar names with slight variations in spelling, grammar, etc.
http://sdatcert3.resiusa.org/ucc-charter/CharterSearch_f.asp

Register (or create) Your Business - The paperwork

The required paperwork to register a business (legally set it up) depends on the legal entity of your business. The following chart summarizes the basic registration process for the most commonly used business entities.

	<u>Sole Proprietor</u>	<u>Corporations</u> <u>C or S</u>	<u>Ltd. Liability Co.'s</u> <u>(LLC's)</u>
<u>Required</u>	Application for Unincorporated ID No.	Articles of Incorporation	Articles of Organization
<u>Optional</u>	Trade Name	Trade Name	Trade Name
<u>Necessary</u>		By-Laws, Minutes and Shareholder Agreements	Operating Agreement (if more than one owner)

"Required" and "Optional" documents need to be filed with the Maryland State Department of Assessments and Taxation (DAT)

"Necessary" documents are NOT filed with the Maryland State Department of Assessment and Taxation (DAT), but are necessary for the creation and validity of the business entity.

Q-Tips:

- LLC's owned by one person are not required to have an Operating Agreement
- Documents that are bold & italicized are recommended for preparation by an attorney.
- Click on this web link to download the form & instructions for those documents which are filed with the State DAT
<http://www.dat.state.md.us/sdatweb/charter.html#newbiz>
- Click on the document to download the form or information on samples
- Keep ALL receipts from the DAT for your PERMANENT records. You will need them to open a business bank account, borrow money, etc.

Getting started with Taxes

First Stop: State of Maryland

- Business Personal Property Taxes, Click Here for Guide, www.dat.state.md.us/sdatweb/pp_brochure.pdf
- Comptroller of the Treasury, www.marylandtaxes.com
Use Combined Registration Form to sign up for most other Maryland State Taxes. The form can be completed online or in hard copy.

Second Stop: The Internal Revenue Service

- Who Needs an EIN (Employer Identification Number)
All businesses are required to have an EIN number EXCEPT sole proprietorships with no employees. In that case the EIN is optional.
- www.irs.gov

Q-Tips:

- EIN numbers are also known as "federal tax id numbers".
- Remember, it's the business applying for the EIN, not you as an individual unless you are going to be a sole proprietor. Register the business first and then the business will be ready to apply for an EIN #.

Determine what Licensing or Permits may be required, if any

Step 1: Federal Licenses - Major Regulatory Agencies

- Securities and Exchange Commission (www.sec.gov/)
- Food and Drug Administration (www.fda.gov/)
- Bureau of Alcohol, Tobacco and Firearms (www.atf.treas.gov/)
- Federal Communications Commissions (www.fcc.gov/)
- Federal Aviation Administration (www.faa.gov/)

Step 2: State Licenses

- The State of Maryland has a Business License Information System to assist business owners, www.blis.state.md.us

Step 3: County Licenses

- Clerk of the Circuit Court - Business License Division
www.montgomerycountymd.gov/mc/judicial/circuit/services/crtclerk/license/license.html
- Other Montgomery County Government Offices which issue licenses

Health and Human Services

www.montgomerycountymd.gov/siteHead.asp?page=mc/servoces/hhs/index.html

Board of Liquor License Commissioners

www.montgomerycountymd.gov/govtmpl.asp?url=/content/blc/app_requirements.asp

Step 4: City Licenses

- Check with your local municipality if your business is located in an incorporated city or town.

Step 5: Permits

- Permits are often associated with some type of construction or building improvements. Your general contractor should know what permits are required if any. You may also contact the Montgomery County Department of Permitting Services (<http://permits.emontgomery.org>)

Q-Tips:

- There is no such thing as a general business license in the State of Maryland or Montgomery County
- Business licenses are required for specific business activities; not just for operating a business.
- Most small businesses do not need a federal license
- The State of Maryland mandates the majority of licenses; many are issued through the Clerks of the Circuit Court

- BLIS doesn't tell you that no license is required. If you can't find a license that pertains to your particular business then most likely your business does not require a state license
- Consultants do not need a license.
- Permits & Licensing for a restaurant

What You need to Know About Home-Based Businesses

A home-based business is allowed to operate in Montgomery County if the business is conducted entirely within the house and it does not change the residential character of the neighborhood such as by creating noise, odors, or vibrations at the property line. The county classifies home-based businesses into three categories and depending on which category you fall into, you may be required to register or seek a special exception with the **BOARD OF APPEALS**.

1. **No Impact** – No more than five vehicles visits per week excluding deliveries, no nonresident employees, and no discernible impact on the surroundings. If you are a no impact business you are permitted by right.
 2. **Registered Home Occupation** – A maximum of twenty vehicles visits per week with no more than five per day, excluding deliveries and only one nonresident employee. If you are registered home occupation you will need to register your business with the **DEPARTMENT OF PERMITTING SERVICES**.
 3. **Major Impact** – If you exceed Registered Home Occupation criteria, you are be required to apply for a special exception. E.g. *Home Health Practitioner, Lawn Maintenance Service*.
- *If you have commercial vehicles in any of these categories you must comply with the standards of your **ZONE**.*

Department of Permitting Services

Zoning Office

255 Rockville Pike, (2nd floor)

Rockville, MD 20850

Phone: 240-777-6240

Website: <http://permits.emontgomery.org>

These regulations do not cover day care facilities, private educational institutions, boarding houses, tourist homes. These all require special exception under their own category. For a complete copy of the rules and regulations, contact the Department of Permitting Services at **240-777-6240**

In addition the following applies to home-based businesses in general, signs are allowed by permit within certain guidelines. The person conducting the business must reside in the home at least 220 days a year, you cannot use more than 33% of total floor area for the business, and you cannot store hazardous materials. In addition you cannot store equipment or materials in an open yard area. City Limits of Rockville call: **301-309-3000** for an application. If you reside in The City of Gaithersburg, you will require a permit to operate a business out of your home. Please call **301-258-6300** for an application. Also, check with your homeowners or condominium association for additional requirements or restrictions.

Q-Tips:

- Also check with your Home Owner's Association or Property Management Form
- Talk with your accountant about what home related expenses are tax deductible by the business.
- Montgomery County has a Home-Based Business Group within the Gaithersburg-Germantown Chamber of Commerce.

Where to look for Funding

1. Start with your personal savings and assets.
2. Gather investments from family and friends.
3. Consider a small business loan
 - Begin with the Bank you have chosen for your business accounts.
 - Learn about the U.S. Small Business Administration's (SBA) loan guaranty programs, www.sba.gov
 - Alternative Sources of Funding
 - FINCA
 - Community Ministries
 - Montgomery County DED
 - State of Maryland Financing Programs
4. Consider equity and grant opportunities
 - Montgomery County Department of Economic Development
 - State of Maryland Financing Programs
 - Tapping into the local investors and venture capitalists
 - www.mava.org

Q-Tips:

- Before approaching any organization for money you **must** have your business plan ready for presentation.

- The business plan **must** clearly show how much money you need and how you are going to spend it..
- The financial projections in the business plan **must** show the loan repayment.
- For most small businesses, the owner needs to have a minimum "down payment" on the total start-up costs of 20%-30%
- The average small business provides 50% of its own start up costs.
- A private investor (angel) or venture capitalist is typically interested in very specific industries and businesses which have a realistic chance of selling to very large markets. The majority of small businesses will not qualify for venture capital funding.
- Most grants are awarded to non-profit organizations. There are very few grants established for the purpose of simply starting a business. Grants are typically awarded for very specific purposes such as scientific research.

Internet Resources on Grants

www.grantsdirect.com

www.fdncenter.org/washington/

Marketing Tips

- Before you start the business decide what image you want the business to portray and how that image will be communicated on business cards, brochures, websites, etc. This is called creating your "brand".
- Before you consider traditional advertising remember that your ad needs to be seen consistently many times before a potential customer even notices your ad. A one time ad is best used for specials, coupons or other one time events.
- Consider spending your time networking before you spend your cash on marketing campaigns.
- Look for networking events that put you in a room full of potential clients
- Know exactly who your potential clients are, how they gather and the best way to communicate with them.
- Treat your business card like a "mini-brochure". Does the reader know what goods or services you provide?